

815 KAR 25:050. Administration and enforcement of manufactured housing construction standards.

RELATES TO: KRS 227.550, 227.555, 227.570, 227.580, 227.590, 227.600, 227.990, 227.992, 42 U.S.C. Chapter 70

STATUTORY AUTHORITY: KRS 227.590

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.590 requires the Manufactured Home Certification and Licensure Board to promulgate administrative regulations governing the standards for the manufacture and sale of manufactured housing. This administrative regulation establishes standards for the design, manufacture, installation, and sale of new and used manufactured homes.

Section 1. Definitions. (1) "Alteration or Conversion" means the replacement, addition, modification or removal of equipment, an appliance, or an installation that may affect:

- (a) The body and frame design and construction; or
- (b) Any one (1) of the following systems:
 - 1. Plumbing;
 - 2. Heat-producing;
 - 3. Cooling;
 - 4. Fuel burning;
 - 5. Electrical; or
 - 6. Smoke detection.

(2) "ANSI" means the American National Standards Institute as referenced in A225.1, Manufactured Home Installations, 1994 Edition.

(3)

"Certified inspector" means a manufactured housing inspector employed by the office.

(4) "Certified retailer" means a licensed retailer who:

- (a) Employs at least one (1) installer certified in accordance with 815 KAR 25:080; and
- (b) Has certified to the office that the dealership is capable of performing minor maintenance to the following systems of manufactured homes:

- 1. Plumbing;
- 2. Heating;
- 3. Cooling;
- 4. Fuel burning; and
- 5. Electrical.

(5) "Class B1 Seal" and "Class B2 Seal" is defined by KRS 227.550(3), and signify the following:

(a) "B1 seal" means the unit has been inspected and found to be in compliance with applicable standards for human habitation; and

(b) "B2 seal" means the unit:

- 1. Has been inspected and found not to be in compliance with applicable codes;
- 2. Is a salvage unit unfit for human habitation; and
- 3. Shall be sold only for the purpose of use as a storage or utility building.

(6) "Factory-built housing" is defined by KRS 227.550(8).

(7) "Federal act" are is defined by KRS 227.550(6).

(8)

"Manufactured home" is defined by KRS 227.550(7).

(9) "Manufacturer" is defined by KRS 227.550(9).

(10) "Mobile home" is defined by KRS 227. 550(10).

(11) "Office" is defined by KRS 227.550(11).

(12) "Red tag" means a written notice which is applied to a manufactured home or mobile home by a representative of the office in accordance with Section 12 of this administrative regulation signifying that it shall not be sold because repairs are required or the appropriate seal has not been applied.

(14) "Retailer" is defined by KRS 227.550(4).

(15) "Salvage unit" means a used manufactured or mobile home not approved for human habitation.

(16) "Used home" means a manufactured or mobile home offered for sale or sold after the original purchase.

Section 2. Limitations on the Conversion or Alteration of a Home by the Retailer. (1) A retailer shall not make any of the following changes to a manufactured or mobile home without the written approval of the manufacturer or the manufacturer's agent:

- (a) The addition or deletion of a window, door, or partition;
- (b) The addition of an electrical circuit to accommodate a washer or dryer;
- (c) The conversion of a heating, cooling, or fuel burning system from one (1) fuel to another, such as electric to gas, or gas to electric or oil;
- (d) The use of improperly listed materials for the repair of a unit; or
- (e) The installation of an unlisted heating, cooling, or fuel burning appliance.

(2) Certified retailer repairs. A certified retailer is authorized to alter or convert equipment and make repairs associated with the sale of a used manufactured or mobile home, in accordance with this administrative regulation and the applicable codes adopted herein.

(3) Changes requested by the purchaser. A change to the equipment, an appliance, or the interior or exterior furnishings of the home shall be made only with the written agreement of the purchaser.

(4) Other changes. The following actions shall be consistent with the sales contract in quality and quantity:

- (a) Replacement or removal of equipment or an appliance listed on the data plate;
- (b) Change or removal of furniture; or
- (c) Other cosmetic changes.

Section 3. Retailer Lot Inspections. An officer, agent, or employee of the office may enter a dealer's place of business in order to inspect:

(1) Each manufactured or mobile home's equipment and equipment installation to insure compliance with the provisions of:

- (a) KRS 227.550 to 227.660;
- (b) The Federal Act; and
- (c) This administrative regulation; and

(2) The maintenance of required records as set forth in Section 4 of this administrative regulation.

Section 4. Required Records. (1) The following records shall be maintained on the premises of the lot from which the home was sold or at corporate headquarters, if headquarters are located in the state of Kentucky, for at least three (3) years:

- (a) Sales or purchase agreements, including Forms KMH 101, KMH 104 and HBCMH 28;
- (b) Unit Inspection, Form HBCMH 40; and
- (c) Monthly Manufactured Home Dealer Certification Format, Form HBCMH 23.

(2) A written request for additional material required by the office for the purpose of audit or

inspection, shall identify the record, file, or document required and the specific complaint or cause for the request. A licensee shall not be required to furnish a record deemed confidential or privileged because of purchaser or lender privacy protections under any federal, state or local law.

Section 5. Consumer Complaints. (1) Upon written complaint and request by an owner or occupant, and in order to determine compliance with applicable law, an inspector from the office may enter a privately-owned manufactured or mobile home sold by a retailer.

(2) The office shall instruct the responsible party, either retailer, certified installer, or manufacturer, to correct a violation if the inspector determines that:

- (a) The home is in violation of applicable construction standards;
- (b) The home has been damaged in transit; or
- (c) The installation violates applicable installation standards.

(3) Failure of the retailer, certified installer, or manufacturer to correct a violation of safety standards shall subject the responsible licensee or certificate holder to the penalties established in KRS 227.630.

Section 6. Installation Inspections. The office may make random inspections, prior to or after installation, to:

- (1) Determine compliance with the minimum installation requirements;
- (2) Assure that a home has not been damaged en route; or
- (3) Assure the home is correctly installed.

Section 7. Retailer Inspection of Used Manufactured Homes in Manufacturer's or Retailer's Possession. (1) A repossessed home or a home taken in trade or purchased by the retailer, shall be re-inspected and certified to the office on Form HBCMH 40 regarding compliance with Section 9(1)(a) through (h) of this administrative regulation.

(a) An existing B seal shall be removed upon trading or purchase. The unit shall be re-inspected and a new seal shall be affixed to the unit if it meets applicable requirements.

(b) A manufactured unit shall not be resold as a dwelling unless it qualifies for and has affixed to it a B1 seal.

(c) The retailer shall affix the appropriate seal to the unit prior to possession or transportation of the unit.

(2) A B2 seal unit shall not be resold unless the purchaser knowingly and willingly signs Form HBCMH 28.

Section 8. Special Exemptions for Retailers License Real estate developer and retailer venture. A retail license shall not be required of a developer who purchases new HUD homes from a licensed Kentucky retailer, places the homes on a parcel of land, and offers the homes for sale to ultimate consumers, if the following conditions are met:

- (1) The developer receives prior written approval from the office;
- (2) The homes are installed by a certified installer;
- (3) The developer owns the homes and the lots upon which the homes are installed;
- (4) The manufacturer's warranty period begins at the time possession is transferred from the developer to the consumer-occupant;
- (5) The manufacturer's warranty support is performed in accordance with generally accepted standards for retail transactions;
- (6) The manufacturer's documentation shall contain the name and location of the:
 - (a) Developer;

(b) Development; and

(c) Retail dealer; and

(7) The retailer and installer shall provide the required services as warranted and as required by laws governing retailer and installer license or certification.

Section 9. Process for Application of B1 Seals. (1) Every used manufactured or mobile home shall be inspected by a certified inspector or a certified retailer and a B seal indicating its compliance or noncompliance with the applicable federal standards under which the home was constructed shall be affixed to the home. The inspection shall consist of the following:

(a) Inspection of the plumbing and waste systems to determine if the systems are operable and free of leaks;

(b) Inspection of the cooling system, and heating or fuel-burning system to determine that they are operational;

(c) Inspection of the electrical system, including the main circuit box, each outlet, and each switch in order to detect:

1. A damaged covering;

2. A missing screw; or

3. Improper installation;

(d) Inspection for the existence of adequate and operable smoke detection equipment;

(e) Inspection of the doors, windows, and general structural integrity of the unit;

(f) Inspection for the existence of two (2) exits;

(g) Inspection for storm windows in a manufactured home, but not in a mobile home; and

(h) The sealing of all exterior holes to prevent the entrance of rodents.

(2) Sales between retailers. The requirement that a retailer inspect and apply B seals to each home before it is sold does not apply if the resale is between retailers.

(3) A retailer desiring to become a certified retailer and to perform the B seal inspection and certification service, shall make application to the office on Form HBCMH 29.

(4)(a) The office shall maintain a list of certified retailers qualified to practice in Kentucky.

(b) A certified retailer shall not:

1. Perform negligent inspection or repair of a unit; or

2. Apply the wrong seal to a unit.

A unit that is not in compliance with the applicable federal standards under which it was constructed:

(a) Brought into compliance and issued a B1 seal; or

(b) Issued a B2 seal.

(5) Fees for requested inspections. The fee for a courtesy inspection of a manufactured home shall be:

(a) If performed by a certified retailer:

1. Seventy-five (75) dollars;

2. Thirty-two (32) cents a mile, measured from the place of the certified retailer's place of business; and

3. Twenty-five (25) dollars for the seal; and

(b) If performed by the office:

1. Seventy-five (75) dollars; and

2. Twenty-five (25) dollars for the seal.

Section 10. Prohibition of Sales. (1) A home shall not be sold or transferred for use as human habitation or occupancy without:

(a) A current, valid, marketable title; and

- (b) A HUD label or a B1 seal.
- (2) As a condition of continued licensure, a retailer shall:
 - (a) Not sell or offer for sale a manufactured home for which a marketable title cannot be presented to the purchaser;
 - (b) Provide an application for title as soon as possible; and
 - (c) Demonstrate good cause for delay in providing an application for title, if the purchaser makes complaint.

Section 11. Application for Seals. (1) A retailer who possesses a used manufactured home without a seal, shall apply to the office for a B seal. The application shall be:

- (a) Filed on Form HBCMh 30; and
- (b) Accompanied by a fee of twenty-five (25) dollars for each seal.
- (2) Recordkeeping. A retailer shall:
 - (a) Maintain the following information, reported on Form HBCMh 23, for each new or used unit sold:
 - 1. Unit serial number;
 - 2. B1 or B2 seal number;
 - 3. Date manufactured, if known;
 - 4. Make of unit; and
 - 5. Name and address of purchaser;
 - (b) Retain the completed Form HBCMh 23 for three (3) years; and
 - (c) Keep the form available to a field inspector upon request.
- (3) Placement of seals.
 - (a) Each seal shall:
 - 1. Be assigned and affixed to a specific manufactured or mobile home;
 - 2. Be transferable only if assigned between retailers;
 - 3. Be void when not affixed as assigned;
 - 4. Be returned to the office if unused;
 - 5. Remain the property of the office; and
 - 6. Be seized for a violation of KRS 227.550 to 227.665 or an administrative regulation implementing KRS 227.550 to 227.665.
 - (b) The seal shall be securely affixed on the door on the handle side at approximately handle height.
 - (c) Other seals, stamps, covers, or other markings shall not be placed within two (2) inches of the seal.
- (4) Lost or damaged seals.
 - (a) If a seal becomes lost or damaged, the owner shall notify the office immediately, in writing, specifying:
 - 1. The manufacturer;
 - 2. The manufactured home serial number; and
 - 3. The seal number, if known.
 - (b) A damaged seal shall be:
 - 1. Promptly returned to the office; and
 - 2. Replaced by the office at a cost of twenty-five (25) dollars.

Section 12. Red Tagging. (1) The office shall:

- (a) Attach a notice of noncompliance, or "red tag", to a manufactured home found to be in violation of KRS 227.550 to 227.665 or of this administrative regulation; and
- (b) Furnish the retailer with a copy.

- (2) The "red tag" shall not be removed and the home shall not be sold unless:
 - (a) The office approves the correction of each violation and the red tag removal; or
 - (b) For an unlicensed retailer, sold to only a retailer qualified to inspect, apply seals, and re-sell.

Section 13. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "ANSI A225.1, Manufactured Home Installations", 1994 Edition;
- (b) "Form HBCMH 23, Monthly Manufactured Home Retailer Certification Format", September, 2007;
- (c) "Form HBCMH 28, Affidavit of Sale (Salvage Only)", September, 2007;
- (d) "Form HBCMH 29, Request for Approval to Inspect", September, 2007;
- (e) "Form HBCMH 30, Application Form for Purchasing "B" "Seals", September, 2007;
- (f) "Form HBCMH 40, Unit Inspection for B-Seal", September, 2007;
- (g) "Form KMH 101, Consumer Protection Notice", September, 2007; and
- (h) "Form KMH 104, Release for Delivery", September, 2007.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Housing, Buildings and Construction, Division of Fire Prevention, Manufactured Housing Section, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405, Monday through Friday, 8 a.m. to 4:30 p.m. (27 Ky.R. 2972; Am. 3254; eff. 6-8-2001; 34 Ky.R. 866; 1431; eff. 1-4-2008.)